

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUMIT GARG,

Defendant.

CASE NO. CR21-0045-JCC

ORDER

This matter comes before the Court on Defendant’s motion for issuance of a Rule 17(c) subpoena. (Dkt. No. 102.) Having thoroughly considered the briefing and relevant record, the Court hereby GRANTS the motion for the reasons explained herein.

Defendant moves for an order directing the Clerk to issue a subpoena *duces tecum*. (Dkt. No. 102.) The Government does not oppose. (*See* Dkt. No. 107.) Defendant seeks issuance of a subpoena to Amazon Inc. (“Amazon”) seeking materials related to an investigation performed by Amazon into Defendant’s former wife and her use of Amazon-issued electronic devices and Amazon networks, as well as the names of any Amazon employees or investigators who conducted the investigation. (*Id.* at 6–7.)

Under Federal Rule of Criminal Procedure 17(c)(1), “a subpoena may order the witness to produce any books, papers, documents, data or other objects the subpoena designates.” However, “[l]eave of court is required for a pretrial subpoena under Rule 17(c)(1) in criminal

proceedings.” *United States v. Estes*, 2015 WL 5177819, slip op. at 2 (D. Nev. 2015). To be entitled to a pretrial production of subpoenaed materials, the party seeking production must show:

(1) that the documents are evidentiary and relevant; (2) that they are not otherwise procurable reasonably in advance of trial by exercise of due diligence; (3) that the party cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreasonably to delay the trial; and (4) that the application is made in good faith and is not intended as a general ‘fishing expedition.’

United States v. Nixon, 418 U.S. 683, 699–700 (1974) (footnote omitted).

Defendant has satisfied his burden. First, Defendant has shown that the records he seeks are evidentiary and relevant. (*See* Dkt. No. 102 at 6, 8–9.) Second, information related to Amazon’s investigation cannot be reasonably be procured from any other source but Amazon. Moreover, pretrial production is appropriate to enable Defendant to properly prepare for trial and to permit sufficient time for a defense expert to review any materials that are obtained. (*Id.* at 1.) Finally, Defendant is making the request in good faith and is not engaging in a general “fishing expedition.” (*Id.* at 9.)

Accordingly, Defendant’s motion for issuance of a subpoena *duces tecum* (Dkt. No. 102) is GRANTED. Defendant is ORDERED to prepare a subpoena for service on Amazon Inc. and submit it to the Clerk’s Office for issuance of the subpoena.

DATED this 25th day of August 2022.



John C. Coughenour
UNITED STATES DISTRICT JUDGE